Kerala Gazette No. 46 dated 23rd November, 1982
PART I A

GOVERNMENT OF KERALA

Election Department

NOTIFICATION

No. 6984/EL1/82/Elec. *Dated, Trivandrum, 1st November* 1982

Notification No. 82/KL-LA/11/82 dated 25th October 1982 of the Election Commission of India is hereby published.

By order,
J. S. Jesudhasan,
Chief Electoral Offices and Special Secretary.

ELECTION COMMISSION OF INDIA

Nirvachan Sadan,
Ashok Road,
New Delhi.
Dated, 25th October, 1982.

NOTIFICATION

No. 82/KL-LA/11/82.—In pursuance of section 106 of the Representation of the People Act, 1951 (43 of 1951), the Election Commission hereby publishes the Judgment of the High Court of Kerala at Ernakulam dated 6th Septembr, 1982 in Election Petition No. 11 of 1982.

IN THE HIGH COURT OF KERALA AT ERNAKULAM

Present

The Honourable Dr. Justice T. Kochu Thommen
Monday the 6th day of September 1982/15th Bhadra, 1904

ELECTION PETITION No. 11 of 1982

Petitioner:—

M. Murali, Madhava Vilasom, Thalayolapparambu P. O., Vaikom.

By Advs. M/s. T. R. Raman Pillai and T.R. Ramachandran Nair

Respondents:—

1. M. K. Kesavan, Mundodithara, Vaikom.
2. Kunju Kochu Kochela, Munnootam Padam, Kudanchoor P. O., Vaikom.
3. P. Kuttan, Lekshom Veedu, Thalayolapparambu P. O., Vaikom
4. V. C. Thankappan, Valechira, Brahmamangalam P. O., Vaikom.
5. V. K. Vimalan, Vavachanthara, Ullala, Thalayazham P. O., Vaikom

By Advs. M/s. V. Sivaraman Nair and K. Balakrishnan

This Election Petition having been finally heard on 26-8-1982 and having stood over to this day for consideration the Court delivered the following:—

JUDGMENT

The Petitioner prays for a declaration that the election of the Ist respondent to the Kerala State Legislative Assembly from No 96 Vaikom L.A. (Scheduled Caste Reserved) Constituency was void and that the Petitioner has been duly elected. In the election held on 19-5-1982 the result of which was declared on the following day, the Ist respondent secured 36,582 votes as against 35,951 votes secured by the petitioner. The Ist respondent thus secured 631 votes in excess of these received by the petitioner. 535 votes were declared to be invalid.

2. The principal allegations of the petitioner are: The polling officers in many polling stations were not provided with marking ink when polling commenced in the morning, as a result of which many ballot papers were not impressed with the marks to indicate the preference of the electors. This irregularity is alleged to have materially affected the result of the election. Votes cast in favour of the petitioner were counted as votes in favour of the I respondent. At counting table No. 8; 35 votes marked in favour of the petitioner were placed below 15 votes received by the I respondent and bundles up as the votes of the Ist respondent. Similar irregularities took place at other

counting tables also. About 100 ballot papers on which the seal was imprinted partly whithin the column containing the petitioner's symbol and name and partly on the blank space outside the column were treated as invalid votes. Several invalid votes of the I respondent as well as other candidates were counted as valid votes of the Ist respondent. The Returning Officer displayed pertisan attitude. The writteo application of the petitioner for recount was rejected without proper enquiry. No test check war conducted by the Returning Officer. The mandatory provirions of Rule 53 regarding admission of persons to the place of counting war not observed by the Returning Officer. There were material discrepancier, in the accounts of the ballot papers. The simultaneous sorting and counting of votes by the officers at the counting tables made verification by the agent's difficult. For these reasons the petitioner alleges that the Returning Officer caught to have directed a recount.

3. These allegations are denied by the I respondents who alone has filed a written statement. He har specifically denied the allegation that the polling and counting had not been done in accordance with law. He further points out that the petitioner does not specifically mention the meterial particulars of any irregularity which could have materially affected the result of the election of the I respondent.

4. In the presence of the counsel on both sider and after discussing with them the following issues were settled:

(1) Whether Polling Officers in any polling station provided only seals without marking ink at the commencement of the polling and if so whether it has meterially affected the rerults of the election?

(2) Were valid votes cast for the petitioner wrongly counted as votes of respondent No. 1. If so their number and its effect?

(3) Were valid voter cast for the petitioner rejected as invalid? If so their number and its effect?

(4) Were invalid votes of respondent No. 1 as well as that of petitioner and respondents 2 to 5 counted ar valid votes of respondent No. 1 ? If so their number and its effect ?

(5) Whether provirions of section 128 of the Respresentatioo of the people Act read and explained by the Returning Officer before commencement of counting ? If not what is its effect ?

(6) Whether the rejection of the petition by the Returning Officer filed for recounting war improper and incorrect ?

(7) Whether the counting and sorting of the votes not done in accordance with law ?

(8) Whether there was material difference between the account of ballot papers furnished to the petitioner's polling agents in the respective polling stations and actual votes counted in the respective polling stations? If so what is the number and its effect?

(9) Whether the petitioner is entitled to get a declaration that the election of the I respondent is void and a further declaration that the petitioner is duly elected?

(10) What is the order as to costs?

5. The averments with reference to which the above issues have been settled, refer to irregularities which are alleged to have taken place at the time of polling and counting. While issue No. I is concerned with the polling, all the other substantive issues are concerned with the counting. The petitioner's case is solely based on grounds covered by Section 100 (d) (iii) and (iv) of the Representation of the people Act, 1951 (the 'Act'), viz., Improper reception or rejection of votes or non-compliance with the provisions of the relevant law. The petitioner has not alleged any ground falling under any other provision of section 100. It is thus clear that the success of the petition would depend upon the petitioner establishing that the result of the election, in so far as it concerns the returned candidate, has been materially affected by the alleged irregularities. The burden to prove the necessary ingredients of the relevant provisions is solely upon the petitioner. He has to show first that the alleged irregularities have in fact taken place, and secondly, as a result of such irregularities the result of the election, in so far as it concerns the I respondent, has been materially affected. As stated by the Supreme Court in Basheer Ahmed Magrey V. Chulan Quadir Mir (A.I.R. 1977 S.C. 231):

> "In an election petition founded upon the ground that the result of the election was materially affected by the improper reception or rejection of votes, the court has first to decide whether certain ballot papers were improperly received or were improperly rejected. Once the controversy is resolved, the rest is purely a matter of arithmetical calculation. If the result of arithmetical calculation is that the returned candidate has still a lead over his nearest rival, his election would not be declared to be void on the ground of improper reception or improper rejection of votes. Improper reception or improper rejection of votes can result in invalidating an election only if such improper reception or improper rejection materially affects the result of the election."

6. The petitioner has to allege the material particulars concerning the irregularities. Such allegations must be supported by cogent evidence. This is the burden which the petitioner must perforce discharge if the petition has to succeed. I shall first deal with the alleged irregularity at the time of polling.

7. *Issue No. 1.* The only specific reference to a polling station in the context of this issue is with regard to Station No. 106. The petitioner has alleged that in this station as well as in many other polling stations marking ink had not been provided with at the commencement of poll in the morning. The petition does not throw any light as to which were these other polling stations where there was no marking in the morning. It is not stated how many votes were cast without the seal being imprinted on the ballot papers for want of ink. None of the material particulars seems to find a place in the petition.

8. The evidence is equally vague and meagre. The petitioner has not produced the written complaint said to have been preferred by the polling agent at polling station No. 106. That polling agent was not examined by the petitioner. The petitioner made no attempt to have the Presiding Officer and a few voters at that polling station summoned as witnesses. Although he stated in his petition that similar complaints had been made in other polling stations also those complaints have not been produced. Nor has the petitioner examined the agents at other polling stations who could have spoken to what happened at their stations. The Presiding Officers and voters at those stations could have been summoned to speak on the point.

Yet the petitioner did not think it necessary to do so. Not an iota of reliable evidence has been adduced by the petitioner on this question Of course P. Ws. 2 and 3 have referred to this matter in their evidence. But they have no personal knowledge of what is stated to have taken place at those polling stations. The I respondent has stated in his written statement that the total number of invalid votes at polling station No. 106 was only 8. This averment is supported by what the Returning Officer stated in Ext. P3 which is his order rejecting the petitioner's application for recount. The petitioner stated in Ext. P2 that at polling station No. 106, the concerned officers gave the seal to a number of voters without the marking ink, as a result of which many of the ballot papers, not containing the impression of the seal, became invalid. He further stated that like irregularity was committed in other polling stations. That allegation was specifically denied in Ext. P3 by the Returning Officer who had full information on the point. He stated that only 8 votes were declared to be invalid out of the total number of votes received from polling station No. 106. This fact, he pointed out disproved the contention of the petitioner in regard to that polling station. Even in regard to these 8 votes, the petitioner has not adduced any evidence to show that the invalidity of those votes or any one of them was traceable to lake of marking ink. It is significant that the Returning Officer has testified as R. W. 4 that the total number of blank ballot papers received from the various polling stations in the constituency was less than 10. There is no evidence that the papers were left blank for want of ink. It is equally possible that they were deliberately not sealed by the concerned voters. In the circumstances the petitioner has not produced any reliable evidence to show that marking ink had not been supplied in time to any of the polling

statious aud that auy single vote was declared to he invalid oo account of such lapse. Iu this couoeetiou it has to be remembered that the difference between the votes secured by the petitioner and the Ist respondeut, who is the returned candidate, is 631 votes. The total uumber of iuvalid votes is ouly 535. Eveu assuming that all the 535 votes become invalid for waut of marking ink—a point on which there is no evidenee whatever and assuming further that all those 535 ballot papers were iutended by the electors to be marked io favour of the petitiouer, the I st respondent would still have a lead over the petitiouer by 96 votes. In the circumstances issue No. 1 has to be found agaiust the petitioner, I do so.

9. *Issues Nos.* 2, 3 *and* 4.—It is alleged by the petitioner that valid votes of his were counted in favour of the Ist respondent. It has also beeu alleged that the Returning Officer improperly rejected more than 100 valid votes of the petitioner in which the mark fell partly withiu and partly without the petitioner's column. According to the petitiou a uumber of invalid votes of the Ist respondeut as well as of other coutesting candidates were counted as valid votes of the Ist respoudeut. The petition, however, does not coutain the material particulars coueerning these allegations, except io regard to counting table No. 8 where it is alleged that 35 votes of the petitioner were tied up with 15 votes of the Ist respondeut on top of them as a bundle containing the votes of the Ist respondeut. The petitioner has not identified iu the petition the polliug stations from which the votes which were thus improperly conuted or buudled came or the eountiog tables at which the alleged irregularity took place, except in regard to the incideut at table No. 8. He has uot stated the serial uumbers of such votes or the total number of such votes. After referring to table No. 8 the petitioner merely says that similar incideuts took place at other tables. As regards the 100 votes which were alleged to have been treated as invalid votes for the reasou that the mark fell partly within and partly without the column in which the petitiouer's name and symbol appeared ou the ballot paper, he has not referred to the serial number of those votes or the polling stations from which they came. All those matters the petition is as vague as it could be.

10. P. W. 1 is the petitiooer himself. His evidence on this matter has little value as it is based on what others told him. He was not preseut at the place of counting, for he was coufined to a hospital as an iu-patieot and was discharged ouly on the day following the eountiog. He admits that he has no personal kuowledge of any of the irragularities which he has alleged in the petition. P.W. 2 was the Chief Election Agent. He has stated io Ext. P2 that 31 votes cast in favour of the petitioner were buodled up with 15 votes of the Ist respondeut. The irregularity, he say was immediately detected aud corrected. However, be appreheuce that similar irregularities had occurred on other occasious. This complaint was rejected by the Returning Officer by Ext. P3 stating that the fact that a mistake had once occurred at table No. 8 did not mean that similar mistakes had occurred on other occasious during the counting. what is important

to note is that P. W. 2 has admitted in Ext. P 2 that the particula irregularity whirh he had pointed out at table No. 8 was immediately corrrted. There cannot, therefore, be any controversy on that point. The votes of the petitioner were removed from the bundles of the 1st respondent and they were then properly bundled. The question, thrrefore, is whether the allegation that similar mistakes or irregularities had ocrurred has been establishrd. P. W. 2 does not say anything directly on the point in his evidenrc. He was of rourse, busy at the main table and he could not have, therefore, notired what was taking place at the rounting tables. All that he says is that the Returning Offirer rejected his romplaint about irregularity at table No. 8 on the ground that it was a mistake. But he admits that the irrgularity was immrdiately rorrected. He does not say that similar irregularities ocrurred at other tables or at table No. 8 on other ocrasions P. W. 3 was the rounting agent of the petitioner at table No. 8. He says that sorting and counting were taking place one after the other and the agrnts had great diffirulty in keeping watrh over them. He says that many votes which were wrongly sortrd were retrared by him. The 35 votrs of the petitionrr which werr wrongly tied up with the votes of the 1st respondent were immediately notired by him and the mistake was rorrected. This was at about 2.30 in the aftrrnoon. He does not, howrver, speak of any othrr irregularity of the kind. P. W. 4 was another counting agent of the petitioner at tablr No. 9. His evidence on the point is equally vague. He merrly says that irregularities took plare at the time of sorting and rounting. But he does not give any details He says that hr did not make any complaint as regards any irregularity. His rvidrnce on the point has no value. P. W. 5 is thr elrrtion agent of respondent No. 5. He admits that there was no dispute about rounting at his table. His rvidenre does not throw any light. P. W. 6 is also one of the agents of respondrnt No. 5. Although he, vagurly and grnrrally refers to irregularities, he has nothing to say sperifirally on the point in question.

11. As rrgards the contention that valid votes rast for the petitioner were rejected as invalid, thr evidenre of P. W. 1 is of no value as he had no personal knowledge. P. W. 2 is the onr person who rould have givrn drtails in regard to this allegation. He says that about 100 votes with a part of thr seal imprinted in the rolumn of the petitionrr and the rest in the blank sparr out side the column of the prtitioner and the rest in the blank spare out side thr column were rejerted as invalid votes. He, however, admits that all doubtful votrs whirh were separatrly bundlrd were brought to the Rrturning Offirer's table for verification. Thr Returning Officer took individual derision in regard to earh such ballot paper. He did not give any written complaint to the officer at thr time when hr took the decision. He only complainrd orally. In Ext. P2 he merrly says that these ballot papers in whirh the impression of the seal fell partly within the rolumn and partly outside the column of a partirular randidate werr wrongly rejectrd by the Rrturning Officrr. However none of the rrlevant partirulars of surh ballot papers was mentioned by him. The complaint was rejected by the Returning Officer by Ext. P 3 stating that not a single ballot paper in

which a part of the seal fell within the column of a candidate was rejected as invalid. In the circumstances one would have expected P. W. 2, who was competent to speak on the matter, to mention the serial numbers of such ballot papers and other particulars concerning them, such as the names and identifying numbers of the polling stations from which they came and the numbers of the counting tables at which they were bundled as doubtful votes. One would have expected P. W. 2 to make a proper note of the irregularities as and when they occurred and to mention the details in the written complaint. No such note has come to light, and Ext. P 2 contains no details. P. W. 3 speaks even more generally on this point. None of the witness who spoke on behalf of the petitioner has thrown any light on this question. As regards the contention that invalid votes of the first respondent as well as those of the petitioner and respondents 2 to 5 were counted as valid votes of the 1st respondent there is total absence of any evidence whatever. In the circumstance I hold that the petitioner has failed to prove issues 2, 3, and 4. These issues are accordingly found against the petitioner.

12. *Issue No.* 5 P. W. 2 complaints in Ext. P 2 that the relevant portions of section 128 of the Act were not read out and explained to the persons present in the hall at the commencement of the counting. This was denied by the Returning Officer in Ext. P3 where he specifically stated that the relevant portions of Section 128 were explained in Malayalam. In his testimony also P. W. 2 repeats this complaint. However, the 1st respondent has deposed as R. W. 1 to the effect that material portions of Section 128 were explained to all persons present in the counting hall. The Returning Officer gave evidence as R. W. 4. The petitioner did not put to him any question as to whether or not Section 128 was read out or explained. In the light of what is state by the Returning Officer in Ext. P3 and in the absence of any cross-examination of that officer on behalf of the petitioner on this matter when he testified as R. W. 4 I am inclined to accept the statement in Ext. P3 and the testimony of R. W. 1 on the point. The oral evidence of P. W. 2 to the contrary, unsupported as it is by any other evidence, is of doubtful crepibility. The burden to prove that Section 128 was not read out and exdlained being upon the petitioner, which burden he has failed to discharge, I would presume that the Returning Officer acted in accordance with the legal requirements in regard to Section 128. The issue is accordingly found against the petitioner.

13. *Issue No. 6* The grounds for recount mentioned in Ext. P2 were (1) the irregularity at polling station No. 106 and at other polling stations not being equipped with marking ink at the commencement of the polling: (2) the Returning Officer's failure to read out and explain Section 128: (3) rejection of votes in which part of the impression of the seal fell within the column of a candidate and part of it on the blank space outside: and (4) mixing up of the petitioner's votes with those of the 1st respondent and counting them as votes cast in favour of the letter. The Returning Officer in his testimony as R. W. 4 has stated that he made all necessary enquiries in regard to the grounds alleged in Ext. P2 and came to the

conclusion that there was no substance in them. He had received no complaint from anybody to the effect that there was no marking ink at the polling stations. He learned from the concerned officers that ink was supplied in time to all polling stations. I have already found that the petitioner has failed to prove issues Nos. 1 to 4. I have also pointed out that, even assuming that the 535 invalid votes were valid votes Which should have been counted in favour of the petitioner, the 1st respondent would still be Leading by 96 votes. There is no evidence whatever to suggest that there were more invalid votes than 535 and that those were counted in favour of the 1st respondent. On the basis of the present evidence it has to be accepted that the invalid votes were not any more than 535 as found by the Returning Officer. The evidence of P. Ws. 2 and 3 would clearly show that before Ext. P2 were fully discussed amongst the petitioner's agents for about 10 minutes. P. W. 2 was given 30 minntes by the Returning Officer to file his written complaint, which, I think, in the circumstances of this case, was more than sufficient. Nevertheless Ext. P2 was so vague that no reasonable person in the position of the Returning Officer could have on its strength ordered a recount of the votes. The Returning Officer was justfied in concluding on the basis of the materials available to him that Ext. P2 was unsustainable. In the circumstances it has to be held that the Returning Officer acted properly and correctly in rejecting the request for recount contained in Ext. P2. This issue is accordingly fonnd against the petitioner.

14. *Issue No.* 7.—The petitioner's witnesses particularly, P.W. 2 to 4 have stated that counting and sorting had been going on far too fast for the agents to keep a proper watch over them. P.Ws. 3 to 6 however say that the votes brought to the counting table were sorted first and the votes of each candidate were separately tied up as bundles of 50 votes each. There is nothing in their evidence to suggest that sorting and counting had been done incorrectly or improperly or negligently. Naturally the counting had to be done as expeditiously as possible. The officers should be commended on the completion of the work without delay. From the evidence on record I am not satisfied that there is any substance inrecord in the contention that there was negligence in the sorting or counting. There is no material to suggest that Rule 56 of the Conduct of Election Rules, 1961 (the 'Rules') was not strictly complied with. Nor is the petitioner s counsel in a position to point out any violation of or non-compliance with the provisions of the Act or of the Rules or orders. Ext. P2 contains no such complaints. In fact it is admitted by the witnesses that no written complaint was made against the manner in which the counting and sorting took place. The present contentions appear to be an afterthought.

15. The petitioner has alleged that Shri Chandrasekharan Nair, who was P.A. to the ex-Minister Shri Sreenivasan unauthorisedly participated in the counting and gave directions to the concerned

officers, as a result of which the officers acted to the prejudice of the petitioner Shri Chandrasekharan Nair was examined as R. W2. He was one of the officers engaged in the counting of votes at the neighbouring Kaduthuruthy Assembly Constituency. The two halls in which the votes of Kaduthuruthy and Vaikom Constituencies were counted are situated in the same compound. R.W. 2 stated that he was in the Kaduthuruthy counting hall from 7.30 in the morning till 5 in the evening. He has denied the allegation that he ever entered the counting hall of the Vaikom Constituency. This evidence is supported by R.W. 3, the returning officer of the Kaduthuruthy Constituency. She says that none of the persons present in the counting hall of the Kaduthuruthy Constituency left the hall until after the counting was over. At no time before then did any one leave the hall. She is emphatic on this point. According to her it was only at about 5' O clock that they were let out of the hall. The doors were closed in the morning and they were not opened till evening. Her evidence suggests that Shri Chandrasekharan Nair could not have been present in the Vaikom Constituency counting hall at any rate before 5 p.m. This is inconsistent with the evidence of the petitioner's witnesses who say that Shri Chandrasekharan Nair came to the hall at about 2.30 p.m. and stayed there for more than two hours R.W. 4 who was the Returning Officer of the Vaikom Constituency testified to the effect that Shri Chandrasekharan Nair never entered the counting hall of Vaikom Constituency. In the light of the Clinching evidence of the two Returning Officers, I am of the view that the oral testimony of the petitioner's witnesses on this point cannot be accepted. It is significant that there is no mention of this fact in Ext. P2. The allegation, in my opinion, is merely an afterthought.

16. The petitioner has alleged that counting and sorting were done by officers, who were members of the N G. O. Union which is sympathetic to or connected with the Communist Party (Marxist) and that they acted with a partisan attitude favouring the 1st respondent who was a candidate of the Communist Party of India, which is one of the constituents of the L.D.F. along with the Communist Party (Marxist). There is no evidence to indicate that the counting officers belonged to the N. G. O. Union. None of the petitioner's witnesses is in a position to identify any one of the officers as a members of the N. G. O. Union. The relevant particulars are not mentioned in the petition. The petitioner made no attempt to have the secretary of the N. G. O. Union summoned to produce the membership register of that Union with a view to identifying the counting officers as its members. There is no evidence to identify their political affiliation. In the circumstances the petitioner has not proved that the counting officers belonged to the N G O. Union and that they acted partially or improperly in discharging their official functions.

17. The petitioner has a case that no test check was conducted by the Returning Officer. P. W. 2 says emphatically. He says that it was a serious error on the part of the Returning Officer. Yet he did not mention this fact in Ext. 12. When the Returning Officer testified as R. W. 4, no question on this point was put to him in cross-examination. The 1st respondent as R. W. 1 deposes that test checking was done by the Returning Officer. In the circumstances, I am of the view that this complaint of the petitioner is an afterthought. Issue No. 7 is accordingly found against the petitioner.

18. *Issue No.* 8.—There is no evidence whatever to suggest that there was any material difference between the relevant accounts prepared on the basis of the statutory provisions. It has not been proved that material differences exist between the figures furnished in F 16 and 20 of the rules in fact PW.2, 4 and 5 positively admit that concerning the votes tallied. In the circumstances issue No. 8 has not been proved. It is found against the petitioner.]

19. Shri Raman Pillai, counsel for the petitioner, perhaps realising the weakness of the petitioner's evidence, submitted in the course of his arguments that the petitioner should be allowed to inspect the ballot papers with a view to substantiating his prayer for recount. I am indeed surprised that this request should have been made at this stage., for the evidence on the side of the petitioner was closed on 24-8-1982. It was never indicated to me at any stage before the commencement of the final arguments that the petitioner proposed to make a request for inspection. All this apart, I am stisfied that the present request for inspection is nothing short of an attempt to embark on a roving enquiry with a view to searching for evidence in support of the allegations which are otherwise unsustainable. As I indicated earlier, the pleadings are vague and far too general. None of the material particulars relevant to the allegations finds a place in the petition, Documentary and oral evidence on the side of the petitioner cannot be said to be any better. There is no shred of evidence to suggest that there is any merit in the petition. "I am not prima facie satisfied" that in order to decide the dispute and to do complete justice between the parties an inspection of the ballot papers is necessary. "(See the principles stated by the superme Court in *S. Raghbir Singh* v S. Gurucharan Singh Tohra—A. I. R. 1980 S. C. 1363 at 1375 and the other cases cited therein). I would not be justified in acceding to the request for inspection, which, in my view is nothing short of an attempt to embark on a roving enquiry in search of materials to get the election declared to be void.

20. *Issue No.* 9. The petitioner has failed to prove any of the alleged irregularities. The allegations are vague. The evidence is totally unsatisfactory. The petitioner is not entitled to the declaration sought. Issue No. 9 is accordingly found against the petitioner.

21. *Issue No.* 10. In the circumstances the petitioner is not entitled to any relief in this election petition. It is accordingly dismissed. The

petitioner shall pay the 1st respondent a sum of Rs. 1000 as his costs, owards which a like sum shall be adjusted out of the amount deposited by he petitioner in this Court.

22. The Registrar shall immediately intimate the substance of this decision to the Election Commission and Speaker of the Kerala Legislative Assembly and shall thereafter send as urgently as possible an authenticated copy of this judgement to the Election Commission of India, as required under section 103 of the Representation of the People Act 1951.

(Sd.)
T. Kochu Thommen,
Judge.

6th September 1982.

Appendix

Petitioners Witness

PW1.	Sri M. Murali, Petitioner
PW2.	Sri M. Krishnan Nair, Chief Election Agent
PW3.	Sri V. M. Seethi, Election Agent
PW4.	Sri M. Raju
PW5.	Sri M. C. Joseph, Election Agent
PW6.	Sri K. V. Joseph, Election Agent

Petitioner's Exhibits :

Ext. P1	20-5-1982	Certified copy of Return of Election in Form No. 21E, of the 96, Vaikom L. A. Constituency.
Ext. P2	20-5-1982	Certified copy of the petition filed before the R. O. by Chief Election Agent of M. Murli candidate of the 96, Vaikom L. A. C.
Ext. P3	20-5-1982	Certified copy of the order of the Returning Officer on this petition filed for Chief Election Agent of Sri M. Murali. Candidate of 96, Vaikom L. A. C.

Respondents Witness :

RW 1	Sri M. K. Kesavan, Ist respondent
RW 2	Sri Chandrasekharan Nair
RW 3	Smt. Vijayalekshmy
RW 4	Sri M. Lakshmanan, Returning Officer

Respondents Exhibits :

Ext. R¹	dated Nil	Orders of Appointment of counting Supervisers/Assts-Election to the Kerala Legislative Assembly 1982, 95 Ka Kadothuruthy L. A. Constituency. File N=0 B2-658/82 of the Returning Officer.
Ext. R2	20-5-1982	Copy of Final result sheet in Form No. 20 of the Vaikom L. A. C.
Ext. R3	20-5-1982	Copy of declaration of Election in Form No. 21C of the 96, Vaikom L. A. C.
Ext. R4	20-5-1982	Copy of return of Election in Form No. 21E of the 96, Vaikom L. A. C.

Cost's to the 1st respondent Rs. 1,000

By order,

(Sd.)

V.K. RAO

Under Secretary to the
Election Commission of India.